

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 22-cr-339(2)-(4) (WMW/DJF)

Plaintiff,

v.

ORDER

Dylan Adrian Day, Joseph Michael Dunkley
Sr., and Bryan Joseph Hodapp,

Defendants.

This matter is before the Court on the Government's, and Defendants' Dylan Adrian Day and Joseph Michael Dunkley Sr.'s motions for discovery, disclosures and other nondispositive relief. On September 13, 2023, the Court held a hearing on the parties' motions and received evidence related to Mr. Day's Motion to Suppress Evidence Obtained from Search Warrant (ECF No. 88) and Mr. Dunkley Sr.'s Motion to Suppress (ECF No. 93). The Court will address the parties' suppression motions in a separate report and recommendation to be issued following post-hearing briefing. The parties waived argument with respect to the remaining motions and submitted them on the written record. Accordingly, based on the parties' written submissions, and upon all the files and proceedings herein, the Court enters the following order on those motions:

I. The Government's Motion for Discovery as to Defendants Day, Dunkley Sr. and Hodapp (ECF No. [7])

The Government seeks discovery and disclosure as required by Rules 12.1, 12.2, 12.3, 16(b) and 26.2 of the Federal Rules of Criminal Procedure. The Government's motion is **GRANTED** insofar as Defendants shall provide discovery to the extent required by the applicable

Rules. The obligation to provide discovery is continuing. With respect to expert discovery pursuant to Rules 16(a)(1)(G) and 16(b)(1)(C), the following deadlines shall apply:

- a. Initial expert disclosures: **28 days prior to trial.**
- b. Rebuttal expert disclosures: **14 days prior to trial.**

II. Mr. Day's Motion for Disclosure of Rule 16(A)(1)(G) Evidence - Experts (ECF No. [85]), Motion for Discovery and Inspection (ECF No. [89]) and Motion for Disclosure of All Statements (ECF No. [90])

Mr. Day's motion is **GRANTED** insofar as the Government shall provide discovery to the extent required by Rules 16 and 26.2 of the Federal Rules of Criminal Procedure, *Brady v. Maryland*, 373 U.S. 83 (1963), *United States v. Giglio*, 405 U.S. 105 (1972), the Jencks Act, 18 U.S.C. § 3500, and all other applicable statutory and constitutional rules. With respect to expert discovery pursuant to Rules 16(a)(1)(G) and 16(b)(1)(C), the following deadlines shall apply:

- a. Initial expert disclosures: **28 days prior to trial.**
- b. Rebuttal expert disclosures: **14 days prior to trial.**

III. Mr. Day's Motion for Disclosure of Surveillance Evidence (ECF No. [86])

Mr. Day seeks an order requiring the Government to disclose all logs, records, memoranda, and other documents or recordings of electronic surveillance or wiretapping directed against him, including pen register and GPS monitoring data. The Government agrees to fully comply with its discovery obligations and states that it will disclose all electronic surveillance materials obtained during the investigation, and Mr. Day's motion is **GRANTED**.

IV. Mr. Day's Motion for Disclosure of Informant (ECF No. [87])

Mr. Day seeks an order requiring the Government to disclose the identities of all informants who were witnesses to or participated in the crimes charged in the indictment, or any crimes the prosecution intends to introduce into evidence at trial, which would be relevant and helpful to the

defense or essential to a fair determination of the case. *See Rovario v. United States*, 353 U.S. 53, 60-61 (1957). Mr. Day's Motion is **GRANTED**. The Government must disclose the identities of such informants, to the extent any exist. The Government must make such disclosures no later than **10 days** before trial.

V. Mr. Dunkley Sr.'s Motion to Compel Disclosure of Favorable Evidence (ECF No. [92])

Mr. Dunkley Sr.'s motion seeking exculpatory and impeaching information is **GRANTED** to the extent required by *Brady v. Maryland*, 373 U.S. 83 (1963), *United States v. Giglio*, 405 U.S. 105 (1972), and their progeny. These cases impose affirmative and ongoing disclosure obligations on the Government. All *Brady* materials not previously disclosed shall be disclosed as soon as practicable.

VI. Mr. Dunkley Sr.'s Motion for Disclosure of 404(b) Evidence (ECF No. [94])

Mr. Dunkley Sr.'s motion for disclosure of evidence the Government may introduce pursuant to Federal Rule of Evidence 404(b) is **GRANTED**. The Government shall make such disclosures at least **21 days** before trial.

SO ORDERED.

Dated: September 20, 2023

s/ Dulce J. Foster

Dulce J. Foster

United States Magistrate Judge